**No. 10- COURT'S ORDER WHETHER THE CASE IS OR IS NOT APPROVED FOR REPORTING.**

[ Chapter VIII, Rule 32 (2) (b)]

**Description of Case.**

**Criminal Appeal No. 1388 of 2001 (Old No. 1165 of 1988)**

Khim Singh
**Versus**
the State of Uttar Pradesh

**A.F.R. ( Approved for Reporting)**
~~Not Approved for Reporting~~

**( B.S. Verma, J.)** **( Irshad Hussain, J.)**

**Date:** August 24, 2005 *Initials of Judge.*

**Reserved Judgment**

**THE HIGH COURT OF UTTARANCHAL AT NAINITAL.**

Criminal Appeal No. 1388 of 2001
Old No. Criminal Appeal No. 1165 of 1988

Khim Singh S/O Prem Singh
R/o village Simgari, Patwari Kshetra Simgari,
P.S. Simgari, District Almora.

**…Appellant.**

Versus

The State of Uttar Pradesh.

**…Respondent.**

**Sri R.S. Sammal, Adv. learned counsel for the appellant-accused.**
**Sri D.K. Sharma, Learned G.A. for the respondent-State.**

**Coram: Hon'ble Irshad Hussain, J.**
**Hon'ble B.S. Verma, J.**

**Dated August 24, 2005**

**( Per Hon'ble B.S.Verma, J.)**

This Criminal Appeal is directed against the judgment and order of conviction dated 30-03-1988, passed by the Sessions Judge, Almora, in Sessions Trial No. 54 of 1987, State Vs. Khim Singh, whereby the accused-appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to undergo imprisonment for life.

2- Brief facts, giving rise to the present appeal, as emerging from the material on record, are that accused Khim Singh was in service out side his village Simgari, but for the last 4-5 years prior to the occurrence, he used to work as labourer. He has a residential house, in which he was residing along with his wife Himuli Devi (the deceased). Adjacent to the house of the accused Khim Singh, there is a house of his real brother Lachham Singh, who lived there with his wife. The mother of the accused, Smt. Manuli Devi, ( PW 1) also used to reside in the house of her son Lachham Singh. The wife of the accused, Himuli Devi, was a short tempered woman and she often quarrelled with the accused. It was suspected

in the village that Himuli Devi was a woman of loose character, hence on that count, the accused was not in amicable terms with her and they often had altercation between themselves. On the fateful day, i.e. on 17-7-1987 also, in late hours of evening, there was a quarrel between the two and early in the morning of 18th July, 1987, one Bahadur Singh, a resident of village Simgari, who was passing by the house of the accused, found that the door of the house was closed. He opened the door and went inside. He then found Himuli Devi lying dead. On hue and cry raised by him, PW 1 Manuli Devi also came on the spot. Bahadur Singh called the Sabhapati of the village, Bachi Singh ( PW4). There they saw that Himuli Devi was having injuries on her body and she was dead.

3- Bachi Singh (PW 4) prepared a written report ( Ext. Ka-1) to the effect that in the night of 17-7-1987, Smt. Himuli Devi was done to death by the accused and the investigation of the case be conducted. This report was handed over to one Kishan Singh for being delivered to the Patwari. On receipt of the written report, Patwari Simgari prepared Check F.I.R. (Ext. Ka-3) and registered a case under Section 302 I.P.C. against the accused. The investigation was taken up by the Patwari. He came to the house of Bachi Singh and recorded his statement. Patwari then proceeded to the house of the accused accompanied by PW 4 Bachi Singh, where he found Himuli Devi lying dead inside the house. The dead body of the deceased was taken into custody and the inquest report Ext. Ka-4 was prepared and the body was sealed and sent for Post Mortem Examination along with a letter of request for conducting post mortem. The blood-stained clothes of the deceased were taken and sealed vide memo Ext. Ka-7. Patwari inspected the place of occurrence and prepared the site plan, Ext. Ka-8. Khim Singh was present at the spot. He was arrested vide arrest memo Ext. Ka-9. Then, on the pointing out of the accused, a blood-stained ***Kulhari*** ( axe) was recovered from inside the house and Fard Ext. Ka-2 was prepared in respect thereof. The Patwari handed over the sealed articles to the peon vide Fard Ext. Ka-10. The statement of Smt.

Manuli Devi and Khimuli Devi were recorded. Patwari also recorded the statements of other witnesses including Joga Singh.

4- The autopsy of the dead body was conducted by Dr. N.D.Punetha, PW 7, on 19-7-1987, at 11-30 a.m. at Primary Health Centre Bageshwar. The doctor found the following ante mortem injuries on the person of the deceased:-

1- Incised wound 5 cm x 2 cm x bone deep present on the left side of mastoid region of the head. Margins were lacerated and well defined.

2- Contusion 5 cm x 3 cm present on the occipital region of the head. Semi digested food material was coming out from the mouth.

5- On internal examination, the doctor found the bone under the said two injuries to be fractured. Clotted blood was found beneath these injuries. A small quantity of semi-digested good material was found in the stomach. There were gases in the small and large intestines. In the opinion of the doctor, the death was result of shock and haemorrhage caused by the two injuries, which were sufficient of cause death in the ordinary course of nature. The doctor prepared post mortem report, vide Ext. Ka-15. According to the medical officer, the duration of death was about one day and the death could have occurred in the night of 17/18-7-1987. He opined that the two injuries could be caused by some heavy sharp edged weapon like Kulhari.

6- The Patwari Simgari, after completing necessary formalities, submitted a charge-sheet, dated 22-8-1987, against the accused, Ext. Ka-14, to the Court of C.J.M. Almora. Since the offence was exclusively triable by the Court of Session, the case was committed to the Sessions Judge Almora for trial of the accused.

7- The learned Sessions Judge charged the accused under Section 302 of the Indian Penal Code, who pleaded not guilty to the charge and claimed to be tried.

8- In order to bring home the guilt to the accused, the prosecution, in oral evidence, examined as many as seven witnesses, namely, Smt. Manuli Devi as P.W.1, Smt. Khimuli Devi as P.W.2, Mohan Singh, minor son of Khim Singh, as PW 3, Bachi Singh as PW 4, Joga Singh as PW 5, Narain Singh Patwari, as P.W.6 and Dr. N.D.Punetha as P.W.7. Prosecution also tendered in evidence affidavit of Bhagwat Singh, peon of Patwari, dated 5-1-1988. Towards documentary evidence, all the documents referred to above were filed by the prosecution. In this case, there was no eye witness account of the occurrence. the case was based on circumstantial evidence. PW 1 Manuli Devi, the mother of the accused, in her testimony, stated that there was a quarrel between the accused and his wife, Himuli Devi, in the evening of 17-07-1987, on the festival of Harela. On the next morning, i.e. 18-7-1987, on Bahadur Singh found the door of the house of the accused closed and when he pushed the door, he found Himuli Devi lying dead inside the house. Bahadur Singh called PW 4, Bachi Singh, and Sabhapati. Thereafter, the Patwari also came on the spot. PW 2, Khimuli Devi, is the wife of Lachham Singh, the brother of the accused. According to her, she did not know whether any quarrel took place between the accused and the deceased. She had gone to her filed on the day of Harela festival. The next morning also, she had gone to the field, but when she came back, she saw Smt. Himuli Devi lying dead. PW 3, Mohan Singh, is the minor son of the accused. He stated that he was inside the house of his grad-mother and he did not know as to what happened in the house of his father. PW 4, Bachi Singh, is the Pradhan of the village. He stated that Khim Singh and his wife Himuli Devi often quarrelled. It was also talked amongst the villagers that the wife of accused was of loose character and on that count, accused Khim Singh was annoyed with his wife and they frequently quarrelled. He further stated that on 17$^{th}$ July, 1987, in the evening, there was a quarrel between Khim Singh and his wife deceased Himuli Devi. Early in the morning, at about 6-10 a.m., the mother of the accused came to him and informed that Himuli Devi

had not got up and Khim Singh was also not there. When he went to the house of Khim Singh, he found that the door was open and he found that Himuli Devi was lying injured and she was found to be dead. Khim Singh was not found there. Bahadur Singh, Joga Singh (PW 5), Lachham Singh, Ram Singh and others also came and by that time, Khim Singh was also found coming towards his house. He also testified that he got prepared the written report, Ext. Ka-1, scribed by Bahadur Singh, and the same was sent to the Patwari concerned. He further stated that when Patwari came, a blood-stained Kulhari was recovered from inside the house on the pointing of the accused and the Fard, Ext. Ka-2, was prepared. P.W.5, Joga Singh, another resident of the village, in his testimony, very hesitatingly stated that the wife of accused was not of loose character. He stated that he went to the house of Khim Singh when the Sabhapati called him there. There he found Himuli Devi dead. Accused Khim Singh was not present there at that time, but after a short-while, he was seen coming to his house. P.W.6, Narain Singh, Patwari, is the Investigating Officer and P.W.7, Dr. N.D.Punetha, Medical Officer, conducted post mortem on the dead body. Both of them are formal witnesses. The evidence of PW 3,Mohan Singh, aged 8 years, minor son of accused Khim Singh, is not at all material for the decision of the appeal.

9- The statement of the accused-appellant was recorded under Section 313 of the Cr.P.C. The accused has denied the accusations levelled against him. He, however, denied that his wife did not obey him and she used to quarrel with him. He also denied that she was of loose character and that he was annoyed with her on that count. He asserted that he was not present at his house, therefore, there was no question of quarrel and altercation between him and his wife. The accused has not disclosed as to where he was on the relevant date. The accused also denied recovery of blood-stained Kulhari on his pointing out. He claimed that the witnesses are inimical to him, hence they have falsely given evidence against him. In reply to question no.11, the accused stated that he cannot

claim if his wife was murdered by Kulhari on the relevant date and time. He admitted that Patwari arrested him on 18-7-1987. He also claimed that he had no reason to kill his wife, who had been living with him for the last about 17 years.

10- The learned Sessions Judge, after hearing both the parties and perusing the entire material on record, came to the conclusion that the prosecution was successful in bringing home the guilt to the accused-appellant and, accordingly, convicted and sentenced him as mentioned earlier.

11- In support of the appeal, it has been contended that the prosecution failed to prove its case by cogent and reliable evidence, therefore, the conviction of the accused-appellant is against the material on record.

12- On the other hand, learned G.A. appearing on behalf of the respondent-State while supporting the finding of the trial court contended that after examining the evidence on record and hearing the rival contentions of the prosecution as well as defence, the learned Sessions Judge rightly held the accused guilty of murder and there is no infirmity in convicting and sentencing the accused.

13- We have considered submissions of learned counsel for the accused-appellant as well as learned G.A. appearing on behalf of the State and have carefully scrutinized the material on record. The only point for consideration in this appeal is whether on the basis of circumstantial evidence, the prosecution was able to bring home the guilt to the accused-appellant beyond reasonable doubt.

14- At the outset, it may be mentioned that Smt. Himuli Devi died in the night intervening 17/18-7-1987 and her death is fully proved by the post mortem report prepared by P.W.7 Dr. N.D.Punetha. It is also not disputed that the deceased suffered ante mortem injuries, detailed above. It is also not disputed that the two

injuries found on the person of the deceased were sufficient in ordinary course of nature to cause death. It has also not been challenged that the ante mortem injuries could not be self-inflicted. It is thus established that the deceased Himuli Devi died as a result of ante mortem injuries sustained by her in the night intervening 17th and 18th July, 1987. Now, the only thing that remains to be examined whether the murder of the wife of the accused, Smt. Himuli Devi, stands proved through circumstantial evidence relied upon by the prosecution. It may also be added here that Bahadur Singh son of Man Singh, resident of village Simgari was named in the list of witnesses in the charge-sheet. The record shows that during the pendency of the Sessions Trial, Bahadur Singh passed away, hence he could not be produced in the witness-box by the prosecution.

15- From a perusal of the entire evidence on record, it is evidence that the prosecution in order to bring home the guilt to the accused has relied upon the testimony of P.W.1, Manuli Devi, P.W.2, Khimuli Devi, P.W.4, Bachi Singh, Pradhan of the village concerned and PW 5, Joga Singh. In order to see frequent quarrel between the accused and his wife, the statements of these witnesses are relevant to be discussed herein.

16- PW 1, Manuli Devi, is the mother of the accused and mother-in-law of the deceased. That being so, there can be no reason for her to falsely implicated her son in the commission of murder. She in the very first paragraph of her statement stated that the wife of Khim Singh, Himuli Devi, did not obey Khim Singh, therefore, Khim Singh was unhappy with her. In the following paragraph, she stated that on the festival of Harela in the evening, there was a quarrel between Khim Singh and his wife. The next day in the morning, when Bahadur Singh opened the door of the hose of Himuli Devi, she also Himuli Devi found lying dead. She was cross-examined and she further testified that at the time when there was quarrel between the accused and his wife, the sun was yet to set. She

also stated that Himuli Devi was a short-tempered woman and had often assaulted her. She further stated that earlier also, Himuli Devi had gone to jungle to hang herself. It is true that PW 1 was subjected to cross-examination by the learned D.G.C.(Criminal). In our opinion, the entire testimony of such a natural witness cannot be completely thrown out. It is true that she has not fully corroborated the prosecution on other points, but her statement to the effect atht Khim Singh was unhappy with the behaviour of his wife and there were quarrels between the two off and on does not lose its credibility. The first circumstance that Himuli Devi was short tempered is further finds corroboration from the statement of PW 4, Bachi Singh, Pradhan of the village. It is common knowledge that in the villages, the Pradhan is expected to have general information regard the family matters and is instrumental to settle family disputes at his level, therefore, as and when any important incident takes place, a Pradhan is informed immediately. In the instant case also, the Pradhan PW 4 got prepared the written report scribed by Bahadur Singh, who had first seen the deceased lying dead inside her house and called the Pradhan immediately on the spot. In his statement, Bachi Singh,Pradhan, specifically stated that Khim Singh and his wife often quarrelled and there was a rumour in the village that Himuli Devi was a woman of loose character with the result accused Khim Singh was unhappy with her. PW 5, Joga Singh, is also resident of the same village. This witness very hesitatingly stated that so far as he knew that character of Himuli Devi was good. The learned Sessions Judge observed that this statement of PW 5 is indicative of fact that probably Himuli Devi was a woman of loose character, though no specific remarks were made by this witness on this point. PW 5 has stated that the accused and his wife sometimes used to have amicable relations and sometimes, they used to quarrel.

17- From the above narration of the testimony of the witnesses, the first circumstance that Smt. Himuli Devi was a short tempered lady and she refused to obey her husband as well as that she was a woman of loose character is established. It can safely be

held that for these reasons, accused was unhappy with his wife Himuli Devi resulting in the quarrels between them off and on.

18- Now, we deal the other circumstances, relied upon by the prosecution, namely that a quarrel took place in the evening of 17th July 1987 between the accused and his wife; that in the night intervening 17/18-7-87 Smt. Himuli Devi was done to death by the accused himself by means of a Khukhari; that the homicidal death of Smt. Himuli Devi could not be the result of assault by any body else other than the accused and that the conduct of the accused in the morning of 18th July, 1987 was unnatural as he could not explain as to where he remained on the fateful night. In the background of these circumstances, it has to be examined whether the circumstances relied upon by the prosecution formed a series of events, i.e. chain of circumstantial evidence was complete, which could be sufficient to show involvement of the accused in the commission of murder or not.

19- For the second circumstance that there was quarrel between the accused-appellant on the fateful evening, the evidence of PW 1, Smt. Manuli Devi, mother of the accused, as well as PW 4, Bachi Singh, Pradhan of the village, is relevant. PW1 clearly stated that in the evening of 17th July, 87 Khim Singh and his wife had a quarrel. She however added that it was early in the evening. PW 1 being the mother of the accused is a very natural witness and the credibility of her testimony cannot be discarded. It is in her statement that she lived with her another son Lachham Singh in a separate house, which is adjacent to the house of the accused. She stated in unequivocal terms that Khim Singh and his wife lived together and she (Himuli Devi) did not obey him. PW 4, who is also a close neighbour, also stated that on the festival of Harela, i.e. 17-7-87 at about 6-30 or 6-45 p.m., a quarrel took place between the accused and his wife and the shouts were heard by him. This part of his statement has not been challenged in the cross-examination. P.W.4, Bachi Singh, being Pradhan of the village is an independent

witness and there was no reason for him to falsely implicate the accused for the offence of murder. From the evidence of these two witnesses, it is fully proved that there was a quarrel between the accused and his wife.

20- The next circumstance relates to the murder of Smt. Himuli Devi in the night intervening 17th and 18th July, 1987. As mentioned above, it has come in the statement of PW 1, Manuli Devi, that the deceased Himuli Devi used to live with the accused in a separate house adjoining the house of her another son. P.W.4, Bachi Singh, Pradhan, in paragraph 3 of his statement, stated that there was a quarrel between the accused and his wife in the evening. In paragraph 4, he stated that in the next morning at 6 or 6-30 a.m., P.W. 1 Manuli Devi came to him and she told that Himuli Devi was yet to woke up. He came to the spot. Accused Khim Singh was not at sight. The accused in his statement under Section 313 of the Cr.P.C. in reply to question nos. 3 and 4 stated that on 17-7-87 he was not at his house. This is very unbelievable statement. The accused could not say as to where he was in the night of 17-7-1987. The conduct of the accused is unnatural in not disclosing the place where he remained in the fateful night. From the testimony of real mother of the accused PW 1, as well as PW 4, Bachi Singh, Pradhan of the village, it is fully established that the accused was very much present at his house on the fateful day and there was a quarrel between his wife and the accused. In the absence of any reason for leaving his house, it can be held that the accused remained in his house in the night. P.W.5, Joga Singh in his testimony stated that when Khim Singh was found in the morning, he was asked about his whereabouts, in the night, but he could not explain. Learned Sessions Judge in the judgment observed that “this conduct of the accused in not explaining the alleged absence from the house would go to show that the case taken by him that he was absent from the house is not belived. Obviously, the prosecution has been able to establish beyond doubt that this accused was present at his house in the night between 17th and 18th July, 1987.” Having considered the

material on record, we are unable to disagree with the finding arrived at by the learned Sessions Judge on the point that it was the accused Khim Singh, who was very much present at his house on the fateful night. Thus, the third circumstance is fully proved by the prosecution.

21- Now, it has to be examined whether or not the accused Khim Singh could be held responsible for the murder of the deceased Smt. Himuli Devi on her homicidal death could have been the act of somebody else. As narrated earlier, the accused in the statement under Section 313 Cr.P.C. in reply to question no. 12 stated that the village people were opposed to him, hence they have come forward against him, but the accused could not assign any reason for it. The statement of P.W.4, Bachi Singh, is very relevant, who clearly stated that none of the residents of the village had any enmity with the deceased Himuli Devi. It is evident from the record that the accused failed to assign any reason for the alleged enmity of the villagers and he could not utter a single word to that effect, therefore, there is no reason to infer that any body else from the village could have committed the murder of Himuli Devi, who was very much present in the house along with the accused-husband on the fateful night. The Investigating Officer, P.W.6, Narain Singh, Patwari, was examined by the prosecution. He clearly stated that on the pointing out of the accused, the Kulhari used in the crime was recovered. He was cross-examined on behalf of the accused. In his cross-examination, he clearly denied the suggestion that the ***Kulhari*** (weapon of assault) was not recovered on the pointing out of the accused. However, recovery of Kulhari is not in question. The I.O. prepared recovery memo, Ext. Ka-2, in respect thereof. In this case, the Medical Officer, PW 6, Dr. N.D.Punetha, was examined. He stated that Ante Mortem Injury No.1 on the person of the deceased could have been caused by heavy sharp-edged weapon such as ***Kulhari*** and injury no.2 could have been caused by the blunt/rear side blow of *Kulhari* or by fall on the stony surface. This part of his statement was not questioned in his cross-examination. The only

suggestion made on the doctor is that there are different size Kulhari for different purposes used in the village. It has come in the statement of I.O. PW 6 that the Kulhari recovered on the pointing out of the accused was blood-stained and hair was stuck on it. He was cross-examined regarding the blood-stained portion of Kulhari and the weight of the Kulhari, etc. It is established that blood-stained Kulhari vide Ext. Ka-2 was taken into custody by the Investigating Officer at the house of the accused. We may mention here that the learned Sessions Judge has not placed reliance on the evidence that the blood-stained *Kulhari* was recovered for the simple reason that PW 4, Bachi Singh, stated that when they entered the house, the *Kulhari* was lying there and the same was visible to every one. The *Kulhari* was taken into custody by the Patwari and sealed. The learned Sessions Judge rightly excluded this part of the prosecution case that *Kulhari* was found at the pointing of the accused.

22- Homicidal death of Himuli Devi is further corroborated by the conduct of the accused in the morning of 18-7-1989. It has come in the statement of PW 5, Joga Singh, that when the accused was found in the morning, he was asked about his whereabouts in the night and he was not able to explain it. Even the PW 2, Smt. Khimuli Devi, wife of brother of the accused, Lachham Singh, stated that accused was outside the house in the morning wandering here and there. Although accused was raising hue and cry that his wife was killed, but he never bothered to contact that Pradhan or the Patwari concerned to lodge a report in the matter. As has been observed earlier, the statement of the accused that he was not present at his house in the night was false and unbelievable on the strength of positive and credible testimony of PW 1, Manuli Devi, and other witnesses, referred to above. The entire conduct of the accused only indicates to his guilt. It is also significant to mention here that when Bahadur Singh, the first person who saw Himuli Devi lying dead inside the house, as well as Manuli Devi, P.W. 1, and PW 4, Bachi Singh, found that the door of the house was not bolted from inside. Probably the accused after committing murder of his wife escaped

from the house after unlocking the bold from inside. It may be mentioned here that said Bahadur Singh was named as a witness in the charge-sheet. The record shows that he expired during the pendency of the Sessions Trial, hence he could not be produced in the witness-box, as mentioned earlier. The learned Sessions Judge has rightly observed that this is also an incriminating circumstance against the accused.

23- Learned counsel for the accused-appellant vehemently submitted that the prosecution evidence is not reliable in this case in as much as Patwari PW 6 found only one injury on the person of the deceased Himuli Devi, while the post mortem report shows that there were two injuries on the body of the deceased. We have been referred to the inquest report as well as statement of PW 6, Narain Singh, Patwari, on this point. It is true that in the inquest report, which was prepared by the Investigating Officer, the I.O. has mentioned that he found an injury of Kulhari blow of the size of 1,1/2 inch present over left temporal region above the ear. At the same time, the I.O. mentioned that the body was in a pool of blood. It is quite probable that Investigating Officer lost sight of the second injury due to pool of blood over the body. Moreover, it is not the case of the accused that the injuries on the person of the deceased could have been manufactured or self-inflicted or that the injury mentioned by the Patwari was not sufficient to cause death in ordinary course of nature. We are not inclined to hold that for this reason, the credibility of the prosecution evidence can be thrown out.

24- It has been submitted by the learned counsel for the accused-appellant that there is no evidence of last seen. He has placed reliance upon the case of ***Sahadevan alias Sagadevan Vs. State represented by Inspector of Police Chennai [2003 Supreme Court Cases (Cri) Page 382]*** wherein the Apex Court observed that "*Criminal Trial-Circumstantial evidence- Last seen together- If the prosecution on the basis of reliable evidence*

*establishes that the missing person was last seen in the company of the accused and was never seen thereafter, held, it is obligatory on the accused to explain the circumstances in which the missing person and the accused parted company*". The facts of the instant case are quite distinct. In the case before the Apex Court a dead body was recovered on 6-3-1985 on the basis of which a case was registered and the case was ultimately closed on 10-10-1986. In the case before us, the dead body was identified as that of the deceased Himuli Devi and the accused is her own husband. The case-law is not applicable.

25- The above narration of the chain of circumstantial evidence, relied upon by the prosecution, as discussed above, lead to the only inference that in the present case, there is no direct evidence and the prosecution case is based on circumstantial evidence. It is fully established that Smt. Himuli Devi, wife of the accused, was a short tempered lady of loose character and she often quarrelled with the accused. It is also established that the accused was unhappy with his wife and that there was a quarrel between them in the night of 17/18-7-1987. It was further established that the accused was very much present at his house on the fateful night and that it was none other than the accused who assaulted Smt. Himuli Devi by a Kulhari with the result she was done to death. It is also established that next day morning, the door was found closed without bold and the accused was found outside the house loitering there. The statement of accused under Section 313 Cr.P.C. that he was not present at his house is false on the face of it in view of the positive and credible testimony of his mother, P.W.1 Manuli Devi. Ultimately, it is also established that the accused Khim Singh was responsible for the murder of his wife, as detailed earlier. We find that all the circumstances taken together lead only to the hypothesis of the guilt of the accused-appellant. Thus the chain of circumstantial evidence led by the prosecution is complete to bring home the guilt to the accused for the offence under Section 302 of the I.P.C. Accordingly, we hold that the accused-appellant Khim Singh was rightly

convicted and sentenced for life imprisonment by the learned Sessions Judge.

26- In the result, the appeal preferred by the accused-appellant has no force and the same is liable to be dismissed.

27- The appeal is hereby dismissed. The impugned judgment, under appeal, is upheld. The accused-appellant was granted bail by the High Court vide order dated 21-12-1992. The bail of the appellant is cancelled. His bail bonds are cancelled and sureties are discharged. The accused-appellant shall be taken into custody and he be sent to jail to serve out the sentence awarded to him.

28- The record of the case be sent to the court concerned for compliance to be reported to this Court in two months from today.

**(B.S.Verma,J.)** **(Irshad Hussain, J.)**

RCP